



U.S. Department of Justice

Office of the Deputy Attorney General

Office of the Deputy Attorney General

950 Pennsylvania Ave., N.W.
Room 4113, RFK Main Justice Bldg.
Washington, D.C. 20530

July 22, 2019

Robert S. Mueller, III
Washington, D.C.
By email

Dear Mr. Mueller:

I write in response to your July 10, 2019 letter concerning the testimonial subpoenas you received from the House Judiciary Committee (HJC) and House Permanent Select Committee on Intelligence (HPSCI). Your letter requests that the Department provide you with guidance concerning privilege or other legal bars applicable to potential testimony in connection with those subpoenas.

On May 29, 2019, with the Department's authorization, you made a public statement about your work as Special Counsel. In that statement, you addressed a possible appearance before Congress, saying that you "hope and expect this to be the only time I will speak to you in this matter." You also stated that if you testify before Congress, "[a]ny testimony from this office would not go beyond our report. It contains findings and analysis, and the reasons for the decisions we made. We chose those words carefully, and the work speaks for itself. The report is my testimony. I would not provide information beyond that which is already public in any appearance before Congress." I understand that subsequently, you advised the committees that you do not wish to testify concerning your work as Special Counsel, given that you would not add anything beyond what you already said in the now-public report and your public statement.

As the Attorney General has repeatedly stated, the decision to testify before Congress is yours to make in this case, but the Department agrees with your stated position that your testimony should be unnecessary under the circumstances. The Department generally does not permit prosecutors such as you to appear and testify before Congress regarding their investigative and prosecutorial activity. In addition, the Department already has taken extraordinary steps to make almost your entire report, as well as a substantial volume of your underlying investigative material, available to the committees. Should you testify, the Department understands that testimony regarding the work of the Special Counsel's Office will be governed by the terms you outlined on May 29 – specifically, that the information you discuss during your testimony appears in, and does "not go beyond," the public version of your March 22, 2019 report to the Attorney General or your May 29 public statement.


Please note that there should be no testimony concerning the redacted portions of the public version of your report, which may not be disclosed because of applicable laws, court rules and orders (including Federal Rule of Criminal Procedure 6(e)), or longstanding Department policies. As you know, the *U.S. v. Stone* and *U.S. v. Concord* cases remain pending, and local

court rules and specific orders issued in those cases substantially restrict the Department's ability to make public statements about those cases. In addition, it is the Department's longstanding policy not to discuss the conduct of uncharged third-parties. *See* Justice Manual § 9-27.760. Established Department policy also precludes any comment on the facts developed and legal conclusions by the Special Counsel's Office with respect to uncharged individuals, other than information contained within the portions of your report that already have been made public.

Finally, any testimony must remain within the boundaries of your public report because matters within the scope of your investigation were covered by executive privilege, including information protected by law enforcement, deliberative process, attorney work product, and presidential communications privileges. These privileges would include discussion about investigative steps or decisions made during your investigation not otherwise described in the public version of your report. Consistent with standard practice, Department witnesses should decline to address potentially privileged matters, thus affording the Department the full opportunity at a later date to consider particular questions and possible accommodations that may fulfill the committees' legitimate need for information while protecting Executive Branch confidentiality interests.

I trust this information is helpful. Please do not hesitate to contact me if you wish to further discuss these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradley Weinsheimer", written over a horizontal line.

Bradley Weinsheimer
Associate Deputy Attorney General